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FURTHER PROMOTION AND ENCOURAGEMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING THE QUESTION OF THE PROGRAMME AND METHODS OF WORK OF THE COMMISSION

HUMAN RIGHTS, MASS EXODUSES AND DISPLACED PERSONS

Internally displaced persons

Report of the Representative of the Secretary-General, Mr. Francis Deng, submitted pursuant to Commission on Human Rights resolution 1993/95

Addendum

Note on the mission to Rwanda

1. During the spring and early summer of 1994 the world witnessed one of the worst human tragedies of this century in the central African State of Rwanda. The killing of President Habyarimana on 6 April 1994 triggered a programme of concerted and widespread human rights violations against the Tutsi minority and moderate Hutus by Hutu extremists. The speed with which the killings were carried out and the systematic methods used led the Special Rapporteur on Rwanda appointed by the Commission on Human Rights to characterize the massacres as genocide. Hundreds of thousands were killed. Political assassinations of moderate Hutus also took place. Millions of Tutsis and Hutus were displaced, both within and outside the country. Hutu civilians in turn faced revenge killings as the Rwandan Patriotic Front (RPF), the Tutsi-led rebel force, invaded from Uganda and took control of the country.

2. Since massive displacement has been a long-standing problem in Rwanda, as in neighbouring Burundi (see E/CN.4/1995/50/Add.2), the Representative had originally intended to visit both countries in April 1994, but because of the tragic events which began in early April, the mission was postponed until a certain degree of normalcy had been restored so that the objectives of the mission, of which dialogue with the Government was a major element, could be pursued in a constructive manner. The visit to Rwanda eventually took place from 7 to 11 December 1994.

3. The Representative would like to express his appreciation to the Government of Rwanda for having agreed to receive the mission on very short notice and for the candour and openness displayed by the authorities in their discussions with him.

4. While a report of the mission and its findings is being prepared, the present note highlights some of the critical problems to which the attention of the Commission should be drawn during its current session.

5. The main cause of displacement in Rwanda has been the political and ethnic conflict between the Hutu majority (approximately 85 per cent of the population) and the Tutsi minority (approximately 14 per cent prior to the 1994 genocide). Over the past 30 years, this conflict has resulted in egregious human rights violations, massacres and armed confrontations. The full report on the mission will examine in detail the origins of the crisis, of which internal displacement has become one of the more visible and desperate symptoms. Since 1990 there have been two major phases of internal displacement. Before 6 April 1994 around 1 million people from the northern part of the country were internally displaced as a result of the invasions of the RPF in 1990 and 1993 from Uganda. Some later returned to their areas of origin. The existing internally displaced population living in camps consists mainly of Hutu civilians from the southern part of the country who fled in front of the advancing RPF/RPA (Rwandese Patriotic Army) forces in April 1994 and sought refuge in the "Turquoise Zone", established and controlled by the French army from 23 June until 22 August 1994 and then handed over to UNAMIR.

6. These camps are located in the prefecture of Gikongoro and accommodate more than 300,000 internally displaced persons. In mid-December 1994, the Human Rights Field Operation in Rwanda (HRFOR) reported that there were approximately 91 camps. The number of Rwandese dispersed throughout the country living outside the camps is not known but probably reaches several hundred thousand persons.

7. The objectives of the Representative's visit were (i) to look at conditions in the camps of the internally displaced in order to evaluate the extent to which protection and assistance needs were being met; (ii) to observe the closure of the camps, an operation which the Government had decided upon and begun prior to the visit, in order to ensure that it was carried out in accordance with international human rights standards and in cooperation with the international community; (iii) to determine the extent to which the return and reintegration process was proceeding with respect to basic human rights principles; and (iv) to hold discussions with the Government on these matters and other issues connected with the genocide and its consequences for justice, peace and national reconciliation.

8. The Representative met with the Prime Minister, the Minister of Justice, the Minister of the Interior, and senior officials from the Ministry for Rehabilitation and the Ministry of Defence. He also had meetings with the Special Representative of the Secretary-General for Rwanda, the Special Representative of the Organization of African Unity, officials from UNHCR, UNREO, and UNAMIR, representatives of local and international non-governmental organizations, and donor Governments.

9. During the mission, the Representative visited a camp of internally displaced persons in the prefecture of Gikongoro. He also visited one of the areas to which displaced persons had returned ("returnee sites") in Mugesera in the prefecture of Kibungo, and a church in Nyarabuye in the prefecture of Kibungo, where evidence of a massacre was still conspicuous. During his visits to these two provinces, he was received by civil and military authorities and spoke with persons who were currently or had been displaced.

10. Many of the displaced, in particular women and children, had been terrorized and subjected to inhuman treatment before taking refuge in the camps. Material conditions in the camps had substantially improved following the mobilization of international resources in response to the crisis. Although food seemed to be adequate and medical care was provided by NGOs, the water supply, especially for personal hygiene, was insufficient. It was evident, however, that the current level of emergency relief assistance would not be maintained for long; food assistance in the camps was being gradually reduced to persuade people to move out of the camps which the Government wanted to close down.

11. The presence of UNAMIR had considerably improved the security situation in the camps although its troops were too few to patrol all areas and prevent all violent incidents. Criminal elements within the camps, for example, were reported to be robbing people on the way back to their homes from points of food distribution. Infiltration of the camps by Hutu militants (Interahamwe) pursuing political objectives contrary to those of the Government further increased the level of insecurity in and around the camps. These elements, some of whom were implicated in the genocide, were reported to be raiding the areas around the camps during the night in order to maintain a destabilizing climate of insecurity. On occasion, UNAMIR detained criminal elements within the camps, working together with government authorities and human rights field officers. RPF/RPA units, to their credit, were then refraining from entering the camps which helped to increase a sense of security among the Hutu civilians inside. These units, stationed outside the camps, also regularly addressed the population to reassure them concerning the objectives of the RPF/RPA, which helped to improve the security situation around the camps.

12. The Government's principal response to the problems connected with the camps was to close them down. In the Government's view, this would isolate and weaken the criminal elements in the camps and end the security threats to surrounding villages. Closure would also end the serious environmental damage being done by the displaced in the camps and would generally help restore the country to normalcy.

13. While dismantling the camps is a legitimate and understandable objective of the Government, displaced persons had compelling reasons for wanting to remain in the camps. The most serious reason was that the security conditions in the areas of return were not satisfactory. There were continuous reports reaching the camps of, for example, arbitrary arrests, detentions and executions by RPA soldiers of persons suspected of membership in the Interahamwe or participation in the genocide, with no recourse to formal judicial proceedings. There were also reports of arbitrary arrests and disappearances being carried out by militia and private persons. In addition, returnees were finding their homes occupied by former Tutsi refugees who had fled Rwanda over a period of 30 years and who had returned home after the RPF came to power. In such cases, the returnees had no recourse to justice, either because the judicial system did not exist or because it was not functioning independently. The displaced, moreover, had very few resources and means by which to return home. The infrastructure of entire villages had been destroyed, and many homes levelled by warfare and looting. The local authorities had extremely limited resources to deal with the assistance and protection problems of the returnees.

14. None the less, despite such concerns, the Government initiated the forcible closure of camps before the mission, which has reportedly intensified since then. Understandable as the desire to close the camps is, it means that the right to return voluntarily to one's home and area of origin in conditions of safety and dignity, the right to choose one's own residence, freedom of movement, as well as the right to life and personal integrity are placed at risk in many cases where people have been forced to return to areas where conditions of insecurity prevail.

15. The United Nations and other international organizations have sought to mitigate the consequences of the forcible closure of the camps. The dilemma for them has been that on the one hand by participating in the dismantling of the camps they risk becoming associated with forcible returns to unsafe situations. On the other hand, if they do not participate, they lose the opportunity to make the returns more secure and sustainable. As a result, they have sought to work together with the Rwandese Government to try to foster safe return and encourage stability, security and development for returnees.

16. Specifically, a task force on internally displaced persons and an integrated operations centre were established by United Nations agencies, NGOs, donor Governments and the Rwandese Government. In addition, a set of principles was drafted concerning the return of the displaced, emphasizing humane treatment and safe and secure return (see annex I). UNAMIR and RPA officers have become involved in escorting returnee groups, and some of the check-points along the roads to returnee sites have been removed. Efforts are also being made to rehabilitate the rural economy by providing to the returnees food assistance and crop seeds for a short period upon return.

17. Operation Retour, which was organized in December 1994 by UNAMIR and UNREO, includes preparations in the camps and home communes prior to departure, assistance with and during the travel home, and support during the period immediately following return. Close to the camps and along the way home welcome centres have been set up to provide food and shelter and in the

home areas open relief centres have been established for provisional assistance during the initial period of resettlement. It is not clear, however, to what extent these plans to promote safe return have been implemented in all areas.

18. In his meetings with the authorities, the Representative strongly urged that the Government should not proceed with forcible camp closures, especially where such activity would force people to move to unsafe areas or areas where they would be unable to sustain themselves. In the discussions he emphasized the importance of ensuring the safety and security of the civilians in the camps and the safety of those who wanted to return home, not only during the process of their return but also after their return. Close cooperation between the Government and the United Nations, particularly UNAMIR and human rights monitors, was strongly advocated to ensure adequate protection and assistance for the internally displaced. Increased human rights monitoring both in the camps and in returnee sites was advocated. It was also recommended that the local authorities be briefed regularly about human rights abuses and measures to promote rehabilitation. The importance of observing human rights and humanitarian standards as bases of cooperation between the Government and the international community was stressed. On the whole, the Government, while firm in its policy of closing the camps, was reassuring in undertaking not to use force or other form of coercion and to cooperate with the United Nations in the planning of returns.

19. It is important that the international community strongly urge the Government to adhere to the guidelines concerning the return of the displaced and that the Government realize that the response of the international community to its request for support could be significantly affected by its observance of human rights and humanitarian standards in this respect. The Government clearly needs international support to fulfil its goal of restoring normalcy in all sectors of public and social life. The genocide and the civil war have devastated the country. There has been social disintegration and the country is barely functioning administratively. Insecurity and instability prevail throughout Rwanda, not only because of fear of a possible new invasion, this time by the Hutu forces of the former Government now in refugee camps in Zaire, but also because of illegal occupation of homes and properties.

20. A key element in rebuilding the country will be the restoration of a functioning judicial system, responsible for investigating and prosecuting individuals for crimes against humanity and adjudicating the enormous caseload of conflicting property claims, in particular with regard to ownership of homes and land. Both tasks are linked to the return of internally displaced persons. Re-establishing the rule of law will require the Government's continued commitment to international human rights and humanitarian law, to restrain actions committed in revenge and to ensure that perpetrators will not evade prosecution.

21. The principles adopted by the Government to solve the problem of illegal occupation of property are sound but difficult to implement in the absence of a functioning judicial and law enforcement system. Alternative methods of arbitrating property and land disputes may have to be sought and community-level initiatives on conflict resolution planned and initiated. In

this regard the Customary Law Project of the Technical Cooperation Unit established by the programme of advisory services and technical assistance of the Centre for Human Rights appears promising in its pilot projects involving elders and other communal authorities. Customary legal traditions, which in the past constituted the traditional first and second instances of litigation (e.g. the institution of Gacaca), might be options worthy of developing, especially since a full-fledged judicial system is not yet fully operational (see the Executive Summary of the report of the Joint Mission* to Evaluate Needs of the Justice System (17 November - 3 December 1994). United Nations agencies, Governments and NGOs could all be enlisted to help in the rebuilding of the judicial system.

22. At the same time, a balance must be struck between the pursuit of justice and the undertaking of steps towards national reconciliation. While the perpetrators of the genocide must be punished, the importance of the objective of healing the nation and mobilizing national resources for reconstruction and development should be given urgent attention. Human rights and peace education must be a major objective of the work of international agencies. Addressing the root causes of the conflict in Rwanda is essential to ending years of human rights abuses and humanitarian emergency situations and creating the conditions needed for solving the problem of internal displacement.

23. Because the situation in Rwanda is heavily influenced by the country's historical and political relationships with its neighbours, in particular Burundi, Uganda, the United Republic of Tanzania and Zaire, regional approaches are important and need to be explored. The influence that the political situation in Burundi has historically exerted on Rwanda, as well as the large numbers of Rwandese refugees on Burundi soil, must be examined. So too the role of Uganda, a country which has hosted large numbers of Rwandese refugees, many of whom were recruited into its army and later organized in the Rwandan Patriotic Front which invaded Rwanda. Zaire, which is currently hosting refugees from the former Rwandese army, is also influencing the situation in Rwanda. The constructive role Tanzania has been playing as a mediator in the conflict remains an important asset in the regional initiatives for peace and reconciliation. The Organization of African Unity could play a pivotal role in developing regional approaches to the situation, including bringing together the affected countries to work out possible subregional arrangements.

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* The Mission was composed of representatives of the following organizations: United Nations Development Programme, United Nations Centre for Human Rights/High Commissioner for Human Rights, United States Agency for International Development, Swiss Cooperation, Association for Cultural and Technical Cooperation among Francophone Countries, International Commission of Jurists, International Peace Academy, Lisbon Forum (North-South Centre, Council of Europe), International Centre for Human Rights and Democratic Development.

24. The situation in Rwanda represents a particular challenge to the international community not only because of the shocking atrocities of the genocide, their equally shocking humanitarian and human rights repercussions and the need to bring the criminals to justice, but also because of the formidable quest for lasting peace, reconciliation and nation-building. Given the bitterness of the genocidal violence, the Government has been reasonably restrained in its response to the situation. However, it remains confronted with major challenges in the area of fundamental human rights, especially with respect to the closure of the internally displaced persons' camps. Certainly, Rwanda will continue to need the support of the international community in confronting its multiple challenges, which are both material and moral. Respect for the fundamental human rights of the population, of which the displaced are an especially vulnerable group, should provide a common ground for the cooperation of the international community with the Government of Rwanda.

Annex I

DRAFT PRINCIPLES FOR SETTLING THE INTERNALLY DISPLACED

Stability, security and development are objectives of paramount importance to the people of Rwanda, their Government and the international community. Fundamental to these objectives is the return of hundreds of thousands of Rwandese who are displaced within their own nation. Towards this specific goal, the Government, with the support of the international community, will intensify its efforts to settle the displaced in an expeditious and humane manner. In pursuing this immediate goal, the Government and the international community are determined to ensure that the principles set out below will underpin all their efforts:

Immediate objectives

1. The immediate objective of the Government and the international community is to have the internally displaced people of Rwanda return home with dignity and in conditions of safety and security.

2. In ensuring that these immediate objectives are upheld, it is agreed that there be:

(i) Total political endorsement. All plans established to support the IDP operation will have the full support and active cooperation of the Government of Rwanda;

(ii) No enforced camp closure. Camps will not be forcibly closed. That said, an environment in which the people are motivated to leave voluntarily will be created;

(iii) Initial operations to create confidence. It is essential to build confidence amongst the displaced population and momentum in the operation. Therefore, from the very outset full attention must be given to ensuring success along these lines;

(iv) Secure environment. Conditions in the Home Communes will be established to create a secure environment and provide essential social services which attract people home from the camps;

(v) Confidence building. Confidence-building measures, primarily concerning security and information dimensions, will be essential;

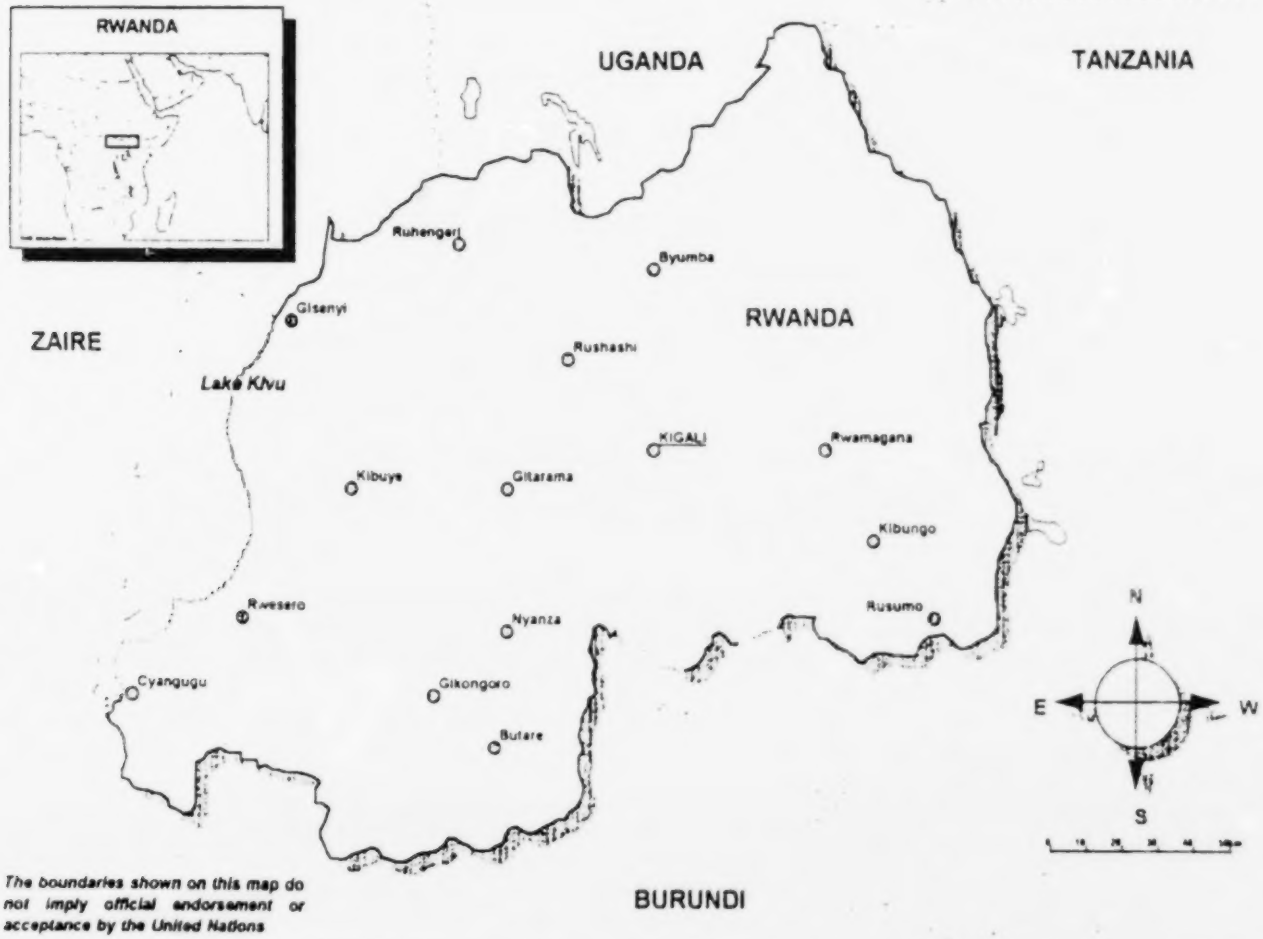
(vi) Impartial information. Information promulgated as part of confidence-building measures must be impartial;

(vii) Return in safety. All efforts must be made to ensure that people return in safety. While ensuring this principle, the Government maintains the right to bring to justice, consistent with the due process of law, those accused of perpetrating genocide;

(viii) Cooperation. The success of the operation will require the full cooperation of all contributing organizations, within the scope of their mandates;

(ix) Flexibility. All plans developed to support the settlement of IDPs must be flexible and lend themselves to modification. Mechanisms must be in place to ensure that any adjustments take place in a way that fulfils the aforementioned principles both at the policy and implementation levels.

Annex II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